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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/795,845	03/08/2004	Sivaprasath Swaminathan	60046.0072US01	1248

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EXAMINER

NGUYEN, TANH Q

ART UNIT	PAPER NUMBER
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2182

MAIL DATE	DELIVERY MODE
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07/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/795,845

Applicant(s)

SWAMINATHAN, SIVAPRASATH

Examiner

Tanh Q. Nguyen

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because applicant has not overcome the rejections under 35 USC 112, and 35 USC 103.

With respect to the 35 USC 112 rejections, the section cited by applicant discloses data being transmitted over the enabled communications port, and the DTR terminal being toggled in the modem control register. **The cited section does not disclose “data being transmitted to a device” and the cited section does not disclose “data transmitted to the device toggling the DTR line in the modem control register”** - as alleged by applicant.

Furthermore, the specification [page 11, lines 10-17] discloses a device connected to the communications port responding to the toggling of the DTR line by **sending data to the UART of the server computer 104**, hence data being transmitted **by the device** (i.e. not transmitting data for reception by the device), and determining whether a receive buffer of the UART contains any data (i.e. whether the receive buffer contains any **data transmitted from the device**).

Note that “determining whether a receive buffer of the communications port contains data following the transmission of data on the communications port” (lines 6-7 of claim 3; lines 6-7 of claim 13) requires **data being transmitted from the device**. If data is not transmitted **from** the device, the receive buffer of the communications port would not contain any data and the device is always determined to be compatible - regardless of its compatibility. There is nothing from the specification that would support “determining whether a receive buffer of the communications port contains data following the transmission of data on the communications port” - **without data being**

transmitted from the device connected to the communications port.

With respect to the 35 USC 103 rejections - claims 1 and 11, applicant argues that Flanagin teaches operating system dependent application programs, hence does not teach "determining whether a communications port has been enabled for utilization with a BIOS-provided console redirection feature" because BIOS and operating system are separate and distinct features of a computer system. Applicant further argues that the citation of Graf is not applicable to Flanagin because Graf teaches BIOS console redirection, that Graf differentiates the BIOS from the operating system, and that Graf does not teach the BIOS console redirection being an operating system dependent application program.

The arguments are not persuasive and misplaced because Flanagin teaches the first requesting application program being a remote device service program [col. 3, lines 37-40], hence determining whether a communications port has been enabled for utilization with a console redirection feature. Graf teaches a BIOS providing an interface to the underlying hardware for the operating system [col. 1, lines 38-45], hence the remote device service program being a BIOS-provided console redirection program because the remote device service program requires both the BIOS and the operating system - whether or not BIOS and operating system are separate and distinct features. Graf is therefore applicable to Flanagin because the claims do not require the BIOS-provided console redirection to be operating system independent.

With respect to claim 11, applicant further argues that Flanagin/Graf does not

teach “determining whether a non-UART is connected to the communications port” or “in response to determining that a non-UART device is connected to the communications port, disabling the BIOS-provided console redirection feature”. The argument is not persuasive because Flanagin/Graf above teaches the limitation of claim 1, and the rejection of claim 3 includes the teachings of a non-UART device - hence the limitation of claim 11.

With respect to claim 3, applicant argues that applicant cannot find support in Flanagin/Graf for “determining whether a receive buffer of the communications port contains data following the transmission of the data on the communications port” and “determining that the device connected to the communications port is incompatible with console redirection in response to determining that the receive buffer contains data following the transmission of the data on the communications port”. The argument is not persuasive because the examiner relies on well-known statements (i.e. not on Flanagin/Graf) to support the limitations, and the support for the well known-statements was provided in paragraph 20, page 8 of the final office action.

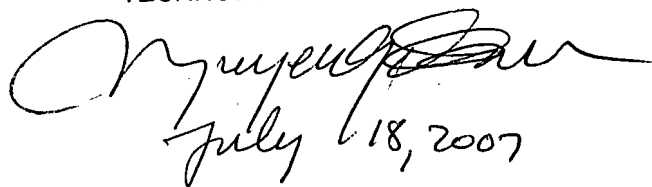
With respect to claims 4, 14, applicant argues that applicant cannot find support in Flanagin/Graf for “wherein the BIOS-provided console redirection feature is implemented by a compressed redirection module and wherein disabling the BIOS-provided console redirection feature comprises not uncompressing or executing the redirection module”. The argument is not persuasive because the examiner relies on well-known statements (i.e. not on Flanagin/Graf) to support the limitations, and the support for the well known-statements was provided in paragraph 21, page 8 of the final

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office action.

With respect to claim 5, applicant appears to argue that Flanagin teaching "enabling the first requesting application program in response to a compatible device being connected to the communications port" is not relevant to "in response to determining that an incompatible device is not connected to the communications port, enabling the BIOS-provided console redirection feature". The argument is not persuasive because Flanagin teaches a compatible device being enabled when the compatible device is connected to the communications port, the compatible device corresponding to the first requesting application program, the first requesting application program being a remote device service program (console redirection program), the remote device service program being BIOS-provided (see rejections of claims 1-5 above).

TANH Q NGUYEN
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July 18, 2007

TQN
July 18, 2007